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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,253	12/27/2005	Wolfgang Dannhauer	BURC3008/FJD	7066
23364	7590	11/03/2006	EXAMINER	
BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314			JENKINS, JERMAINE L	
			ART UNIT	PAPER NUMBER
			2855	

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

A

<b>Office Action Summary</b>	<b>Application No.</b> 10/533,253	<b>Applicant(s)</b> DANNHAUER ET AL.	
	<b>Examiner</b> Jermaine Jenkins	<b>Art Unit</b> 2855	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

**DETAILED ACTION*****Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 10-18 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-9 of U.S. Patent No. 7,021,149. Although the conflicting claims are not identical, they are not patentably distinct from each other because U.S. Patent 7,021,149 teaches all the basic features of the claimed invention; therefore, the application is deemed non-distinct.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 10-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Adams (4,668,889).

In regards to claims 10 & 11, Adams teaches a differential pressure sensor having a first chamber (20, i.e. cavity), which is sealed by a first separating membrane (10, i.e. diaphragm) and filled with a transmission medium (i.e. silicon oil) (Column 2, lines 16-39), the first separating membrane (10) being loadable with the process pressure (i.e. high pressure) (Column 6, lines 63 – Column 7, line 4); a second chamber (22), which is sealed by a second separating membrane (12) and filled with a transmission medium (i.e. silicon oil) (Column 2, lines 16-39), the second separating membrane (12) being loadable with the ambient pressure (i.e. low pressure) (Column 6, lines 63 – Column 7, line 4; See Figure 1), a pressure sensitive-element (17, i.e. protective diaphragm), which separates the first chamber (20) from the second chamber (22) (See Figure 1); and a damper (50) for damping excess-pressure pulses (Column 4, lines 30 & 31) wherein the damper (50) being arranged between the pressure-sensitive element (17) and the second separating membrane (12) (See Figure 1).

With respect to claim 12, Adams teaches a pressure-sensitive element (17) having a measuring membrane especially a piezoresistive silicon chip with a measuring membrane (Column 6, lines 63-69).

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With respect to claims 13 & 14, Adams teaches a damper having a sintered body being a metallic or ceramic sintered body (Column 4, lines 30-35).

With respect to claims 15-17, Adams teaches the damper having a porous structure having porosity between 15 vol.% and 50 vol.% preferably between 25 vol.% and 35 vol. % (Column 4, lines 30-35).

With respect to claim 18, Adams teaches the sintered body (50) having an essentially cylindrical form and the length of the sintered body in the axial direction is at least twice as large as the diameter (See Figure 1).

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- U.S. Patent 6,813,953 (Baba et al) – Pressure Sensor with a Corrosion-Resistant Diaphragm
- U.S. Patent 6,279,401 (Karas) – Differential Pressure Transmitter
- U.S. Patent 5,583,294 (Karas) – Differential Pressure Transmitter Having an Integral Flame Arresting Body and Overrange Diaphragm
- U.S. Patent 5,531,120 (Nagasu et al) – Compact Differential Pressure Transmitter Having First and Second Damper Chambers
- U.S. Patent 4,995,266 (Tobita et al) – Differential Pressure Transmitter
- U.S. Patent 4,713,969 (Ishii) – Differential Pressure Transmission Apparatus

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- U.S. Patent 4,527,428 (Shimada et al) – Semiconductor Pressure Transducer
- U.S. Patent 4,203,327 (Singh) – Piezoresistive Silicon Strain Sensors and Pressure Transducer Incorporating them
- U.S. Patent 3,596,520 (Sanford) – Spring Compensated Differential Pressure Cell

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jermaine Jenkins whose telephone number is 571-272-2179. The examiner can normally be reached on Monday-Friday 9am-530pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on 571-272-2180. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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